

REMARKS

To move prosecution forward, Applicant cancels claims 1 through 10, 25, 27, 30, and 31 without prejudice or disclaimer and amends claim 33 to improve form.

THE PENDING CLAIMS RECITE PATENTABLE SUBJECT MATTER UNDER § 101.

The Action asserts that the claims fail to recite a significant practical application or a physical transformation. Applicant disagrees with the Action's assertions. The pending claims recite a physical transformation as well as a practical application.

a) Physical Transformation

The pending claims recite a physical transformation. As recognized by the Board of Patent Appeals and Interferences,

There is always some form of physical transformation within a computer because a computer acts on signals and transforms them during its operation and changes the state of its components during the execution of a process

Ex Parte Bilski, Appeal No. 2002-2257, p. 38 (BPAI 2006)(quoting the Examination Guidelines for Computer-Related inventions, 61 Fed. Reg. at 7484). The Application, as amended, includes five independent claims, claims 11, 21, 32, 33, and 41. Independent claims 11, and 33 explicitly recite a processor for carrying out specified operations. Claims 21 and 41 recite computer readable media encoding instructions for causing a processor to carry out operations. Finally, independent claim 32 recites means for carrying out various process steps, and the means described in the application includes processors of various types. As each and every independent claim recites directly, or indirectly, the processing of data by some form of a processor, each and every independent claim recites a physical transformation.

b) Practical Application

Each of the independent claims also recites a useful, concrete, and tangible result, and therefore recites a practical application. Ex Parte Bilski, p. 24 (citing State St. Bank & Trust Co.

v. Signature Fin. Group, 149, F.3d 1368 (Fed. Cir. 1998). Claims 11 generally relates to a system that includes a processor for creating at least one model reflecting a behavior of a user based on the features associated with a group of packets received after a filter has been applied to a stream of packets. The claim recites several concrete and tangible steps carried out by the processor in forming this model, including filtering packets in a network, receiving a group of packets after application of the filter, associating at least one feature with each packet in the group, and associating at least one annotation, including an identification of the filtering technique, with the feature.

The model generated by the system is a concrete, tangible, and useful result. As described in the specification (see, for example, paragraph [0026]), and as recited in claims 33 and 41, a model representing the normal behavior of a user in response to the application of a filtering technique can be used to identify and filter out malicious communications. Thus, independent claim 11 recites a system which generates a useful, concrete, and tangible result.

As independent claim 11 recites a system that causes a physical transformation and that generates a useful, concrete and tangible result, independent claim 1 constitutes patentable subject matter under 35 U.S.C. § 101. Claims 12, 14—17, 19, and 20 depend from claim 11 and add further limitations thereto. Therefore, Applicant requests reconsideration and withdrawal of the § 101 rejection of these claims.

Independent claim 21 recites a computer readable medium for causing a processor to carry out the steps recited as being carried out by the processor in claim 11. Independent claim 21 therefore likewise recites patentable subject matter. Claims 22—24 depend on claim 21 and add further limitations thereto. Applicant therefore requests reconsideration of the § 101 rejections of claims 21—24.

Independent claim 32 recites a system for identifying normal traffic during a network attack. Among other things, the claim recites means for allowing groups of packets classified as normal groups to pass on toward their destination and means for filtering groups classified as attack groups. In such a system, a network attack need not fully shut down the operation of a network node. Instead the system recited in claim 32 can identify packets that are not part of the

attack and pass those packets through towards their destination. Thus, independent claim 32 recites concrete, tangible and useful results.

Moreover, independent claim 32 recites a number of concrete operations carried out by various means incorporated into the system for achieving this result. These operations include comparing features associated with a group of packets with features of each of at least one identified models, generating a closeness score for each of the at least one identified model based on the comparing, determining whether the closeness score for each of the at least one identified model equals or exceeds a threshold, and identifying the group of packets as a normal group when the closeness score of at least one of the identified models equals or exceeds the threshold.

Thus, independent claim 32 recites a system that causes a physical transformation and generates a useful concrete and tangible result. Independent claim 32 therefore recites patentable subject matter. Independent claims 33 and 41 recite similar subject matter and therefore fall within § 101 as being of patentable subject matter. Claims 36, 39, and 40 depend from claim 31 and add further limitations thereto. Therefore, Applicant requests reconsideration and withdrawal of the § 101 rejections of claims 32, 33, 36, and 39—41.

In view of the above amendment, Applicant believes the pending application is in condition for allowance.

Application No. 10/058,442
Amendment dated May 7, 2007
Reply to Office Action of February 6, 2007

Docket No.: BBNT-P02-369

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 18-1945, under Order No. BBNT-P02-369 from which the undersigned is authorized to draw.

Dated: May 7, 2007

Respectfully submitted,

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